

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES--GENERAL

Case No. **EDCV 23-01727-JFW (DTB)**

Date: **December 6, 2023**

Title: **Sunil Bhasin v. City of San Bernardino, et al.**

DOCKET ENTRY

PRESENT:

HON. DAVID T. BRISTOW, MAGISTRATE JUDGE

S. Lorenzo
Deputy Clerk

n/a
Court Reporter

ATTORNEYS PRESENT FOR PLAINTIFF:

None present

ATTORNEYS PRESENT FOR DEFENDANT(S):

None present

PROCEEDINGS: (IN CHAMBERS) ORDER TO SHOW CAUSE

On August 25, 2023, Plaintiff Sunil Bhasin (“Plaintiff”), proceeding pro se, filed a Civil Rights Complaint against the City of San Bernardino, John Valdivia as elected Mayor in the City of San Bernardino, City of San Bernardino Police Department, Brian Harris as Captain Chief of San Bernardino Police Department, Supervising Officer(s) of the San Bernardino Police Department DOES 1-10, San Bernardino Police Officer(s) DOES 11-20, Anshu Pathak, and DOES 21-50 (“Defendants”) [Dkt. # 1] (“Complaint”). Plaintiff is responsible for requesting and obtaining summons(es) and is ordered to promptly proceed with proper and lawful service of the summons and complaint on each named defendant. Service must comply with the provisions of Rule 4, Federal Rules of Civil Procedure. The Court notes that Plaintiff failed to provide the Court with a Summons when he filed the Complaint.

Service under Rule 4 of the Federal Rules of Civil Procedure requires service of “both the summons and the complaint . . . within the time allowed by Rule 4(m)” to effect proper service. See Fed. R. Civ. P. 4(c)(1). A party to the action may not effect such service. See Fed. R. Civ. P. 4(c)(2). Under Rule 4(e), an individual defendant may be served with a summons and complaint by: (1) “following state law for serving a summons in an action brought in courts of general jurisdiction in the state where the district court is located”; or (2) “(A) delivering a copy of the summons and of the complaint to the individual personally; (B) leaving a copy of each at the individual’s dwelling or usual place of abode with someone of suitable age and discretion who resides there; or (C) delivering a copy of each to an agent authorized by appointment or by law to receive service of process.” Fed. R. Civ. P 4(e).

Rule 4(m) provides that if a defendant “is not served within 90 days after the complaint is filed, the court – on motion or on its own after notice to the plaintiff – must dismiss the action without prejudice against that defendant or order that service be made within a specified time.” Fed. R. Civ. P. 4(m). However, if a plaintiff shows good cause for the failure to serve, the court must extend the time for service for an appropriate period. Id. The burden of establishing good cause is on the plaintiff. Tucker v. City of Santa Monica, 2013 WL 653996 at *2 (C.D. Cal. Feb. 20, 2013)). The “good cause” exception to Rule 4(m) applies “only in limited circumstances” and is not satisfied by “inadvertent error or ignorance of the governing rules.” Id. (citations and quotations omitted); see also Townsel v. County of Contra Costa, 820 F.2d 319, 320–21 (9th Cir. 1987) (ignorance of Rule 4 is not good cause for untimely service)). Further, unless service is waived, proofs of service must be provided to the Court. Fed. R. Civ. P. 4(l).

Here, Plaintiff filed this action more than 90 days from the date of this Order but has not filed any proof of service of the Summons and Complaint upon Defendants nor has he requested the issuance of a Summons. Absent a showing of good cause by Plaintiff, the Court may dismiss the action under Rule 4(m).

Plaintiff is therefore ORDERED to show good cause in writing within fourteen (14) days of the date of this Order why this action should not be dismissed pursuant to Rule 4(m) of the Federal Rules of Civil Procedure for failure to timely serve process upon any defendant.

Plaintiff is advised that if he fails to file a response within fourteen (14) days of the date of this Order, the Court may also recommend the dismissal of this action for lack of prosecution and for failure to comply with Court orders.

IT IS SO ORDERED.